

December 31, 2008

To: Teresa Parsons
Director's Review Program Supervisor

FROM Meredith Huff, SPHR
Director's Review Investigator

SUBJECT: Adnan Abu-Saleh v. Department of Transportation (DOT)
Allocation Review No. ALLO-07-110

Director's Review Conference

Through his representative, Vincent Oliveri, Mr. Abu-Saleh requested a Director's Review of his position's allocation by submitting a Request for Director's Review form on November 8, 2007. On October 9, 2008, I conducted a Director's review conference. Present at the review conference were Adnan Abu-Saleh, WSDOT employee; Vince Oliveri, IFPTE Local 17, representing Mr. Abu-Saleh, and Mina Barahimi, IFPTE Local 17 staff assistant; and Niki Pavlicek, Classification and Compensation Manager, representing DOT. The review period is the twelve months prior to March 15, 2006.

Director's Determination

The Director's review of DOT's allocation determination of Mr. Abu-Saleh's position is complete. The review was based on written documentation, classifications and information gathered during the October 9, 2008 review conference. As the Director's investigator, I have carefully reviewed all of the file documentation, classifications and the information provided during the review conference. I conclude that on a best fit overall, Mr. Abu-Saleh's position is properly allocated to the class of Transportation Technician 3.

Background

On March 14, 2006 the DOT NW Region Human Resources office received a Classification Questionnaire (CQ) for Mr. Adnan Abu-Saleh's position, #10163. The CQ was signed by the Mr. Shiferaw and Mr. East as supervisors. A comment on the CQ states "*Adnan refused to sign this document stating he is in the process of applying for a reallocation of his position.*" (Exhibit HR-3)

Mr. Abu-Saleh requested a reallocation of his Transportation Technician 3 (TT3) position to the Transportation Engineer 2 (TE2) classification by submitting a CQ to DOT's NW Region Human Resources office on August 7, 2007. Mr. Abu-Saleh's signature carried a written note "*submitted 3-15-06*". Mr. Askarian and Mr. East signed as supervisors. (Exhibit HR-2).

During the Director's Review conference, the dates on Mr. Abu-Saleh's CQ were discussed. Ms. Pavlicek provided background information. The DOT Human Resources Office (HRO) received Mr. Abu-Saleh's CQ in March 2006. However, the HRO returned the CQ to Mr. Abu-Saleh for changes. The back and forth exchange between Mr. Abu-Saleh and HRO continued for several months until the CQ was accepted by HRO in August, 2007. Ms. Pavlicek indicated she had located a written document indicating that the HRO's intent was to accept Mr. Abu-Saleh's CQ effective March 15, 2006. During the

Director's review meeting, Mr. Oliveri and Ms. Pavlicek agreed that the submittal date of the CQ to DOT HRO is March 15, 2006. They further agreed that the review period is twelve months prior to March 15, 2006 as provided in the collective bargaining agreement between DOT and IFPTE Local 17.

By letter dated October 28, 2007, Ms. Pavlicek notified Mr. Abu-Saleh that his position was properly allocated as a Transportation Technician 3 and denied his request for reallocation to the Transportation Engineer 2. (Exhibit HR-1) On November 8, 2007, Mr. Abu-Saleh requested a Director's review of DOT's determination by submitting a Director's Review Form. (Exhibit 1)

Mr. Abu-Saleh's comments

Mr. Abu-Saleh stated during the review conference that since August 2003, he spent 80% of his work time assuming the survey party chief duties. This involved supervising, planning, and directing the crew on how to complete the day's assignment.

Mr. Oliveri indicated that Mr. Abu-Saleh was unofficially designated to be the party chief of the survey crew for SR99 as the actual position of the party chief was vacant and continues to be vacant. Mr. Abu-Saleh asserted that he was verbally directed by Sam Al Mallah and Messay Shiferaw to be the survey party chief for the design work to be done on SR99 starting in August 2003. He explained that he was responsible for doing topography survey work for the design of SR99 construction. After the design work was completed, Mr. Abu-Saleh contended that he remained survey party chief for the construction survey for SR99 while the HOV lane was being constructed.

Mr. Abu-Saleh confirmed that he did not have a regular survey crew; his survey crew was drawn from various areas of DOT. Mr. Abu-Saleh stated that some members of the crew had not done survey work before and he was responsible for training the crew members. He pointed out a petition, which was signed by several crew people attesting that Mr. Abu-Saleh was the survey party chief to them. (Exhibit A-3) Mr. Abu-Saleh presented several small notebooks which he identified as survey records for the survey work he completed on SR99 as survey party chief. He did not submit the notebooks as exhibits for this review.

DOT's Comments

Ms. Pavlicek stated during the review conference, that the CQ received March 14, 2006, signed by Mr. Shiferaw and Mr. East as supervisors, describes the work assigned to Mr. Abu-Saleh and the agency believes that specified work falls within the Transportation Technician 3 classification. Therefore, Mr. Abu-Saleh's position remains classified at the TT3 as the best fit class. (Exhibit HR-3)

Supervisor's written comments

For the CQ received at NW HRO on March 14, 2006, Mr. Messay Shiferaw, Project Engineer, signed as the immediate supervisor and indicated that close detailed supervision was required for Mr. Abu-Saleh's position. Mr. Robert East, Asst. Regional Administrator signed the CQ as the second-level supervisor and agreed with Mr. Shiferaw's comment. Mr. Abu-Saleh did not sign this CQ. (Exhibit HR-3)

Mr. Abu-Saleh completed the CQ received by NW HRO on August 7, 2007. Mr. Mike Askarian, acting TE5, signed the CQ as the immediate supervisor. Mr. Askarian made the following comments: *"Disagree with employee's statement and most responsible duty. Adnan received continuous supervision, direction and guidance as to what needs to be surveyed or checked during construction as opposed to identifying what needs to be performed independently. Adnan do[es] a good job of topography surveying, but needs lots of work in construction surveying which is extremely important to be a party chief. See attachment."* Mr. Askarian's attachment has the following information:

Mr. Adnan Abu-Saleh's comment	Mr. Mike Askarian's, supervisor, response
Assume survey party chief duties since August 2003	Adnan has not taken party chief duties.
Supervising, planning and directing the crew on how to complete the day's assignment	Not to level of a party chief.
Performing surveying duties in both field of topography and construction survey	Adnan has performed topography 90% of time.
Serves as interface with public and contractors	This is not true.
Solve survey problems in the field	We had to send Les DuBois TE-3 to field to resolve surveying issues.
Evaluates alternate design	Adnan has not evaluated alternative designs.

Mr. Robert East, Asst. Regional Administrator signed the CQ as the second-level supervisor. Mr. East stated, *"I agree with Mike Askarian's assessment that Mr. Abu-Saleh does not perform TE2 work."* (Exhibit HR-2)

Rationale for Director's Determination

A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which the work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

The Personnel Resources Board (PRB) has held the following:

... because a current and accurate description of a position's duties and responsibilities is documented in an approved classification questionnaire, the classification questionnaire becomes the basis for allocation of a position. An allocation determination must be based on the overall duties and responsibilities as documented in the classification questionnaire. Lawrence v. Dept of Social and Health Services, PAB No. ALLO-99-0027 (2000).

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO- 06-013 (2007), the Personnel Resources Board addressed the concept of best fit. The Board referenced Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

Glossary of Classification Terms

In reviewing this position, I have considered the following terms. The Department of Personnel's Glossary of Classification Terms defines these terms. The Glossary is found at <http://www.dop.wa.gov/HRProfessionals/Classification/>.

Independent – Has the authority to make decisions without supervisory approval regarding the work processes and methods which will be used; can modify procedures as long as such changes conform to agency/institutional and departmental policies and regulations.

Journey-level – Fully competent and qualified in all aspects of a body of work and given broad/general guidance, can complete work assignments to standard under minimal supervision. Also referred to as the *working* or *fully qualified* occupational level.

Supervision required – The extent of control exercised by the supervisor with respect to the way assignments are made; the latitude that the position incumbent has in performing and/or determining work methods and priorities; the scope of decision-making authority that the position incumbent has to use discretion in determining a course of action in new or unusual situations; and the degree of review of completed assignments. There are four basic types of supervision:

1. Direct supervision – Work is performed in accordance with specific instructions regarding assignments to be completed and sequence of work steps to be employed. Decision-making authority is limited to clearly defined work procedures, formats and priorities. Work is reviewed for accuracy, and adherence to instructions and established procedures.
2. General supervision – Recurring assignments are carried out within established guidelines without specific instruction. Deviation from normal policies, procedures, and work methods requires supervisory approval, and supervisory guidance is provided in new or unusual situations. The employee's work is periodically reviewed to verify compliance with policies and procedures.

Investigator's Request for Clarification by Supervisors

The CQ submitted by Mr. Abu-Saleh lists Les Dubois / Sam Al Mallah as immediate supervisors. (Exhibit HR-2, box 8) The CQ submitted by DOT lists Les DuBois as the immediate supervisor (Exhibit HR-3, box 8). Mr. DuBois and Mr. Al Mallah did not provide comments on the CQ submitted by Mr. Abu-Saleh or the CQ submitted by DOT. As a result of the differences of opinions regarding the assigned responsibilities to Mr. Abu-Saleh, I requested through Ms. Pavlicek additional information from Mr. DuBois and Mr. Al Mallah.

Ms. Pavlicek responded that Mr. Al Mallah “. . .indicated that he did not supervise Mr. Abu-Saleh on either of the projects”[SR 99 and SR 161].

Ms. Pavlicek submitted a response from Mr. DuBois which is copied in part and italicized below: (Exhibit F-1)

1. Please describe the level of supervision you provided for Mr. Abu-Saleh's work:

“I would characterize the level of supervision as somewhere between (close/detailed) and (spot-check only). While Adnan would perform most of the field work without supervision (for a period of time I would go out one day a week), the expectation was for him to meet with me first thing each morning to review progress from the previous day and plan the work for the current day. On occasions when we were checking the contractors staking, I would work closely with Adnan in determining the coordinates of points to checks.”

2. Mr. Abu-Saleh indicated that he was the party chief for survey work on SR 99...starting in Aug. 2003 to 2006.

2A. Was Mr. Abu-Saleh directly or indirectly assigned as party chief for the SR 99 project? “NO”

2D. If no, who was designated as party chief for this survey work? *“There was nobody designated as party chief. When field surveying was necessary, Adnan would perform the work, either with an E2 inspector or someone from the materials testing staff to assist. As noted above, I would also work in the field with Adnan depending on the task.”*

3. Mr. Abu-Saleh indicated he was the party chief for survey work on SR 161...from 2003- 2006.

3A. Was Mr. Abu-Saleh directly or indirectly assigned as party chief for the SR 161 project? “NO”

3D. If no, who was designated as party chief for this survey work? *“There was nobody designated as party chief. When field surveying was necessary, Adnan would perform the work, either with an E2*

inspector or someone from the materials testing staff to assist. As noted above, I would also work in the field with Adnan depending on the task. . . . By the time I was supervising Adnan, the DOT had switched from a position of providing the majority of the construction staking to a position of requiring the contractors to provide all of the required surveying. . . . While Adnan did often work in the field with other staff members and with no one specifically titled as the party chief, . . . he was not tasked with all of the responsibilities described . . . [description in TE2 Typical Work statement for survey party chief]. Adnan could do a pretty good job on topographic design survey work, but he had not worked on a crew that performed much in the way of construction staking. My expectation of Adnan was for him to check in with me at the beginning of each shift to discuss progress of work and to plan activities for the day. He did perform the physical survey work . . . , however, he was not tasked with nor did he perform the actual planning of the daily or weekly activities. I would go through traffic control planning with Adnan as well, for those jobs that were not within a current construction zone. Adnan did train others in the operation of surveying equipment, but I would not characterize his efforts as those that would be expected of a party chief. Adnan did not serve as the interface with the public and contractor. All questions received by other parties were forwarded to me for response. It is not always necessary that a party chief be designated to perform survey functions. Therefore, just because there wasn't one, doesn't by default imply that Adnan was. . . ." (Exhibit F-2)

Transportation Engineer 2 (TE2) (class code 66140)

The **Definition** for the TE 2 classification states: "*Performs transportation engineering work under general supervision.*"

The **Distinguishing Characteristics** for TE 2 state: "*Work at this level is characterized by the independent application of standard engineering procedures and techniques to accomplish a wide variety of work in the office, laboratory, and/or field. Incumbents generally serve as full production staff or crew leaders. Work is assigned through general instructions and the setting of deadlines by a supervisor who engages in ongoing spot-check review, provides assistance when problems are encountered and reviews completed work. This role may include the leadership of technical support staff and entry level engineers such that incumbents are called upon to direct and train staff.*"

On the CQ, Mr. Mike Askarian, supervisor, stated "*Adnan received continuous supervision, direction, and guidance as to what needs to be surveyed or checked during construction as opposed to identifying what needs to be performed independently. . . .*" Mr. East agreed with Mr. Askarian's statement.

Mr. DuBois indicated that his supervision of Mr. Abu-Saleh's position was between close/detailed and spot-check only. He stated that Mr. Abu-Saleh performed most of the field work without supervision except for a period of time when Mr. DuBois would go to the field once a week. However, Mr. DuBois also stated that he expected to meet each morning with Mr. Abu-Saleh to "*review progress from the previous day and plan the work for the current day.*" In addition, Mr. DuBois indicated that he worked closely with Mr. Abu-Saleh in determining the coordinates of points to check when checking the contractors' staking. The levels of supervision described by Mr. DuBois and Mr. Askarian are a closer match to the DOP definition of *direct supervision* rather than *general supervision* as defined in the Glossary of Terms. The Definition of the TE2 requires working under general supervision. The supervision provided to Mr. Abu-Saleh's position does not meet the level of general supervision as required by the Definition of the TE2.

The Distinguishing Characteristics requires that "*Work at this level is characterized by the independent application of standard engineering procedures and techniques*".. Mr. Abu-Saleh's work was not characterized by *independent application*. Rather, daily meetings were expected by Mr. DuBois to review Mr. Abu-Saleh's work progress and to "*plan for the work of the current day.*" Mr. Abu-Saleh's work is closely checked and he reviews the daily plans with his supervisor rather than independently

applying standard engineering procedures and techniques. Mr. Askarian indicates that 90% of the survey work Mr. Abu-Saleh performed is in topography. Mr. Abu-Saleh does some construction survey work but according to Mr. DuBois' and Mr. Askarian's comments, does not meet "*independent application of standard engineering procedures and techniques*" in the construction survey work. For example, Mr. DuBois worked closely with Mr. Abu-Saleh in determining the coordinates of points to check when checking the contractors' staking. Further, Mr. Abu-Saleh is instructed to refer concerns from the public or contractors to Mr. DuBois. Mr. Askarian also stated that Mr. DuBois was sent to the field to resolve surveying issues when Mr. Abu-Saleh was working in the field. Mr. Abu-Saleh's level of responsibility and assigned duties do not meet the level of independent application of standard engineering procedures and techniques anticipated in the Distinguishing Characteristics of the TE2.

Mr. Abu-Saleh observed that he assumed the role of survey party chief when no other party chief was assigned. Mr. DuBois explained that under the DOT's procedure, survey party chiefs were no longer assigned for each survey project. Mr. DuBois indicated that during daily meetings with Mr. Abu-Saleh, the progress of the survey work and the activities to be accomplished for that day would be discussed. Under Mr. DuBois' supervision, Mr. Abu-Saleh was not assigned as a survey party chief, nor did he fulfill all of the responsibilities and duties of a survey party chief.

Overall, Mr. Abu-Saleh's level of supervision and independent application of standard engineering procedures and techniques, as well as the responsibilities and assigned work does not reach the level expected by the requirements of the Definition and Distinguishing Characteristics of the Transportation Engineer 2. The Transportation Engineer 2 class is not the best fit overall for Mr. Abu-Saleh's position.

Transportation Technician 3 (class code 66100)

The Transportation Technician 3 class **Definition** states: "*This is the skilled journey level within the Transportation Technician series.*"

The **Distinguishing Characteristics** state: "*In the office, laboratory and/or field, incumbents perform skilled technical tasks in support of engineering projects and progress. Incumbents typically receive instructions about the work to be done including scheduling and priorities, but work with relative independence in selecting methods and resolving routine problems. Employees at this level are expected to exercise initiative and judgment in independently carrying out assignments according to established policies, procedures and standards. When solutions are not readily attainable, the employee refers the problem to the supervisor. Leadership responsibility is normally limited to on-the-job training of other technical staff. May act as crew leader on specific assignments that do not require ongoing direction from a supervisor.*"

In addition to independently performing the work described at the Transportation Technician 1 and 2 levels, incumbents perform the level of work described below a majority of the time. This description is not intended to be all-inclusive but representative of the level of responsibility and level of difficulty of the work performed by this class."

Survey

Performs all duties on a survey crew including operation of a variety of instruments such as levels, transits, theodolite, EDM and total station; trains other crew members in survey practices and instrument operation; takes notes manually or with data collector, downloads and uploads data collector to/from computer, edits data, accesses mainframe programs and operates personal computer to calculate alignment data, triangulations, benchmarks, grades, etc; produces plots of survey data on electronic plotter; serves as leader of a two-person leveling crew; acts as assistant party chief and is responsible for survey party operations in the absence of the chief.

A majority of Mr. Abu-Saleh's position involved doing survey work. Mr. DuBois, Mr. Abu-Saleh's supervisor, daily reviewed the progress of Mr. Abu-Saleh's survey work and planned the day's work assignment. Mr. DuBois stated that he occasionally went to the field with Mr. Abu-Saleh, however, Mr. Abu-Saleh normally worked without supervision in the field. This supervisory level is in keeping with the TT3 Distinguishing Characteristics which state in part, *"Incumbents typically receive instructions about the work to be done including scheduling and priorities, but work with relative independence in selecting methods and resolving routine problems Employees at this level are expected to exercise initiative and judgment in independently carrying out assignments according to established policies, procedures and standards"*

During the time period of this review, Mr. Abu-Saleh operated a variety of instruments used in surveying, maintained manual survey records, entered survey information into the DOT computer system, and trained other crew members in how to operate the equipment and do survey work. These responsibilities are addressed in the Distinguishing Characteristics of the TT3.

Mr. Abu-Saleh's level of responsibility, duties and the supervision he received are encompassed in the Definition and Distinguishing Characteristics of the Transportation Technician 3 classification. The Transportation Technician 3 class best describes the overall duties and responsibilities of Mr. Abu-Saleh's position. His position is appropriately allocated to the class of Transportation Technician 3.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

c: Vincent Oliveri, IFPTE, Local 17
Adnan Abu-Saleh
Niki Pavlicek, DOT
Lisa Skriletz, DOP

Enclosure: List of Exhibits

List of Exhibits

A. Adnan Abu-Saleh's (Employee) Exhibits Filed November 8th, 2007:

1. Director's Review Form
2. Classification Questionnaire Position #10163
3. Organizational Chart
4. Agency Allocation Determination letter dated October 28th, 2007:

A. Employee's Exhibits: Filed by IFPTE (Vincent Oliveri) December 18th, 2007 (Duplicate copies also received from Mr. Abu-Saleh)

- A-1. Table of Organization for three Project Engineer Offices that perform Survey work.
A-2. WSDOT's email dated June 28, 2004 regarding Appellant's performance of survey party chief duties.
A-3. Petition signed by employees attesting to party chief duties performed by Appellant.
A-4. Spreadsheet calculations performed by Appellant in regard to party chief duties.
A-5 through A-12 – Additional email exhibits regarding party chief duties:

A. Employee Exhibits submitted at conference October 9, 2008:

- A-13 Explanation of duties from Adnan Abu Saleh (two pages).
A-14 CQ for Adnan Abu Saleh, position 10163, May 2002.

HR. Agency Exhibits Filed by Niki Pavlicek DOT on April 29th, 2008:

- HR-1. HR Allocation Determination letter dated October 28th, 2007
HR-2. Classification Questionnaire dated and signed 6/26/07; received at HR on 8/7/07 with attached supervisor statement from Mr. Askarian. (Mr. Abu-Saleh noted submission date of March 15, 2006.)
HR-3. Classification Questionnaire with supervisor's statement and essential job functions, received in HR on 3/14/06. (Note indicating that Mr. Abu-Saleh refused to sign this CQ.)
HR-4. Organizational Chart for NW Region, Snoking Area, dated 12/19/05.
HR-5. Transportation Technician 3 Classification (66100)
HR-6. Transportation Engineer 2 Classification (66140)

D. Transportation Engineer 2 (530L) Classification

E. Transportation Technician 3 (538T) Classification

F. Director's Review investigator's request

F-1. Email from Meredith Huff, DOP Investigator, October 29, 2008, to DOT requesting information from Mr. Abu-Saleh's first-level supervisors.

F-2. DOT response from Mr. Les DeBois, Mr. Abu-Saleh's immediate supervisor.

F-3. Submitted by Mr. Oliveri, 11/18/08, Mr. Abu-Saleh's e-mail responses to Mr. Les DeBois' comments.

- F-3a. Survey needs
F-3b. SR99 HOV Lanes - Resurvey at Soil Nails Locations
F-3c. SR99 and SR161 Survey
F-3d. SR99 Control Points-1
F-3e. SR99 Control Points-2
F-3f. Survey Request